

REMARKS

The present amendment is in response to the Office Action dated November 15, 2006. Claims 1-16 and 60-65 are now present in this case. Claim 1 is amended.

Claims 1, 5-6 8, and 64 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Chambers et al., Schreiber et al., and Engels et al. The applicants respectfully traverse this rejection and request reconsideration.

In a previous response, the applicants argued that the references were directed to disparate technologies and that one skilled in the art would not be motivated to combine them in the manner suggested in the Office Action. The present Office Action responds to that argument by stating that “regarding Schreiber, one of ordinary skill in the art at the time of the invention would have seen the advantage of using a higher power transmitter to provide a larger coverage area such that signals may be sent and received over a greater distance.” The Office Action further states that “regarding Engels, one of ordinary skill in the art at the time of the invention would have seen the advantage of using indoor, non-line-of-sight antennas to allow transmitters to be more flexibly placed without having to provide a line-of-sight between the transmitters.”

The applicants’ assertion that the references are directed to disparate technologies does not refer to the fact that all references are directed to wireless systems using OFDM technology. Rather, it should be noted that Chambers et al. is directed to a bi-directional short-range wireless computer network. With respect to the assertion that Chambers et al. discloses OFDM technology, it should be noted that the word OFDM appears only once in the disclosure at column 4 where Chambers et al. states that “it is conceivable that the same type of transmission and receiver components could be easily modified for use with the present invention. This could lead to implementation of CDMA, OFDM, GSM, or TDMA type transmission multiplexing of signals.” (Emphasis added.) (See column 4, lines 38-42.) Thus, Chambers et al. surmises that it is conceivable that an OFDM implementation is possible, but provides no disclosure whatever of an OFDM system. As noted in the summary of the invention,

at column 2, lines 32-34, the delivery platform of Chambers et al. is designed as a solution to the "last mile" problem in connecting a network to individual residential subscribers. Chambers' solution to this problem is a short-range micro-cell distribution system preferably having a coverage range of 1000-2000 feet. (See column 3, lines 23-25.)

In sharp contrast to Chambers et al., Schreiber et al. is not even directed to a bi-directional communication system, but discloses a one way television transmission system. Schreiber et al. does not disclose a computer network with a plurality of base stations and a plurality of consumers with consumer premise equipment (CPE). Rather, the consumers in Schreiber et al. simply have television receivers. There is no bi-directional communication in Schreiber et al.

The Office Action asserts that one skilled in the art would combine Chambers et al. and Schreiber et al. by simply increasing transmission power in Chambers et al. However, this is simply a bare assertion by the Office Action based on hindsight analysis using the claimed invention. The applicants respectfully request that the Examiner point to objectively verifiable evidence or supply an affidavit setting forth the objectively verifiable evidence of such motivation to combine or modify Chambers et al. and Schreiber et al. in the manner suggested in the Office Action. In the absence of objectively verifiable motivation to modify and/or combine the art of record to reach the applicants' claim at issue, no *prima facie* case of unpatentability has been established. Accordingly, applicants respectfully request that the Examiner allow claims 1-8 for at least this reason.

Engels et al. is directed to an indoor wireless local area network (LAN). It should be noted that Engels et al. does not actually describe a working system, but presents a paper design with simulated results. (See page 255.) Furthermore, as the Office Action notes at page 11, Engels et al. is directed an indoor communication system. While Engels et al. discloses no operational range in its theoretical description, it is safe to assume that the operating range for the indoor system in Engels et al. is less than one mile. As such, even the combination of references do not teach or suggest a system capable of bidirectional communication with a range between one and 10 miles, as recited in claim 1.

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Claims 9-12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,867,485 to Chambers et al., a publication by Engels et al., and U.S. Patent No. 5,425,050 to Schreiber et al. The applicants respectfully traverse this rejection and request reconsideration.

For the reasons discussed above, the Office Action does not provide a *prima facie* case of obviousness. The references are directed to differing aspects of wireless technology. Schreiber et al. teaches the increase of transmission power in a centrally located one-way distribution system. This does not teach or suggest increasing transmission power in a bi-directional communication system, such as the low power short range bi-directional communication system of Chambers et al. Even if one combined the references, it would only lead to the increase in transmission power

for the base stations. Keep in mind that the claimed system is a bi-directional communication system which requires that the individual CPEs have the capability of communicating over a far greater distance than that disclosed in Chambers et al. In light of the fact the Schreiber et al. does not even disclose a bi-directional system, it clearly cannot be used to teach the increase in transmission power in a bi-directional system. For at least these reasons, claims 9-12 are allowable over the combination of references.

The remaining claims stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Chambers et al. and Schreiber et al. with Engels et al. or one or more other references. However, for the reasons discussed above, the combination of Chambers et al. and Schreiber et al. does not provide a *prima facie* case of obviousness for the reasons discussed above. The combination of references cited in the Office Action are no more relevant to the remaining claims than they are to the claims discussed above. Accordingly, for the sake of brevity, the rejections of each claim need not be discussed. However, it should be noted that no *prima facie* case of obviousness has been established. The Office Action provides a bare assertion that it would be obvious to combine references. The applicants respectfully request that the Examiner point to objectively verifiable evidence or supply an affidavit setting forth the objectively verifiable evidence of such motivation to combine or modify Chambers et al. and Schreiber et al. in the manner suggested in the Office Action. In the absence of objectively verifiable motivation to modify and/or combine the art of record, no *prima facie* case of unpatentability has been established. Accordingly, the applicants respectfully request the Examiner allow claims 9-16, and 60-65.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. The applicants have made a good faith effort to place all claims in condition for allowance. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,
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